



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,558	05/20/2004	Jason D. Rivers	005242.00084	6569

22907 7590 11/24/2006

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT	PAPER NUMBER
----------	--------------

1711

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/849,558

Applicant(s)

RIVERS ET AL.

Examiner

Ana L. Woodward

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/30/2004, 5/12/2005, 4/3/2006
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final. 7/28/2006
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 6, 7, 10, 12 and 14-20 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5, 8, 9, 11 and 13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/30/04, 5/12/05, 4/3/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I and the ultimate species per Example 2 in the reply filed on July 28, 2006 is acknowledged. The traversal is on the ground(s) that claims 14-17, by virtue of their dependence on the elected claims comply with the requirements for rejoinder. This is not found persuasive because applicants have not submitted evidence or identified such evidence now of record showing the species of groups I and II to be obvious variants of each other or clearly admitted on the record that this is the case.

The requirement is still deemed proper and is therefore made FINAL.

2. As regards claims 18-20, pursuant to the procedures set forth in MPEP § 821.04(b), once the product of group I is found allowable, claims 18-20, directed to the process of using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, will be rejoined and fully examined for patentability under 37 CFR 1.104.

3. Claims 6, 7, 10, 12 and 14-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 28, 2006.

Claim Rejections - 35 USC § 102/103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1711

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 8 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 99/61538.

WO '538 discloses protein coatings having good adherence comprising an aqueous dispersion of proteinaceous material, reading on the presently claimed protein-based component and 0.1 to 25 weight percent of a crosslinking agent containing an epoxide or polyepoxide, preferably an epichlorohydrin-modified polyamine, epichlorohydrin-modified polyamide, epichlorohydrin-modified polyamidoamine, etc, reading on the presently claimed polymeric quaternary amine cure accelerant. The inventive examples provide various coatings falling within the scope of the present claims. Noted of particular interest is Example F comprising soy protein as required by applicants' claim 8.

The disclosure of the reference meets the requirements of the present claims both with respect to types of materials added and their contents. Although the reference coatings are not expressly described as thermosetting, there is reasonable basis for believing that the reference products are thermosetting given their chemical similarity to that presently claimed. The onus is shifted to applicants to establish that the product of the present claims is not the same as or obvious from that set forth by the reference.

Claim Rejections - 35 USC § 103

7. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/61538 described hereinabove.

WO '538 differs in essence from the above-rejected claims in not expressly disclosing an aqueous solution of the crosslinking agent. The reference, however, teaches that the crosslinking systems used preferably are water-based (page 9). Accordingly, it would have been obvious to one having ordinary skill to have employed a water-based crosslinking agent, e.g., water-based epichlorohydrin-modified polyamine for its expected additive effect and with the reasonable expectation of success.

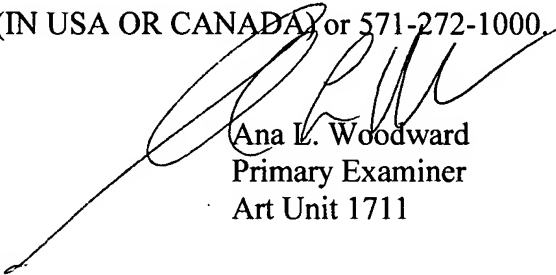
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ana L. Woodward
Primary Examiner
Art Unit 1711
